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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,067	01/25/2002	Charles R. Sperry	D-30259-01	3363

7590 12/15/2003

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EXAMINER

SIMONE, CATHERINE A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

db8

Office Action Summary

Application No.

10/057,067

Applicant(s)

SPERRY ET AL.

Examiner

Catherine Simone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 11-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3 and 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I, claims 1-10 and 33, in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 11-32 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

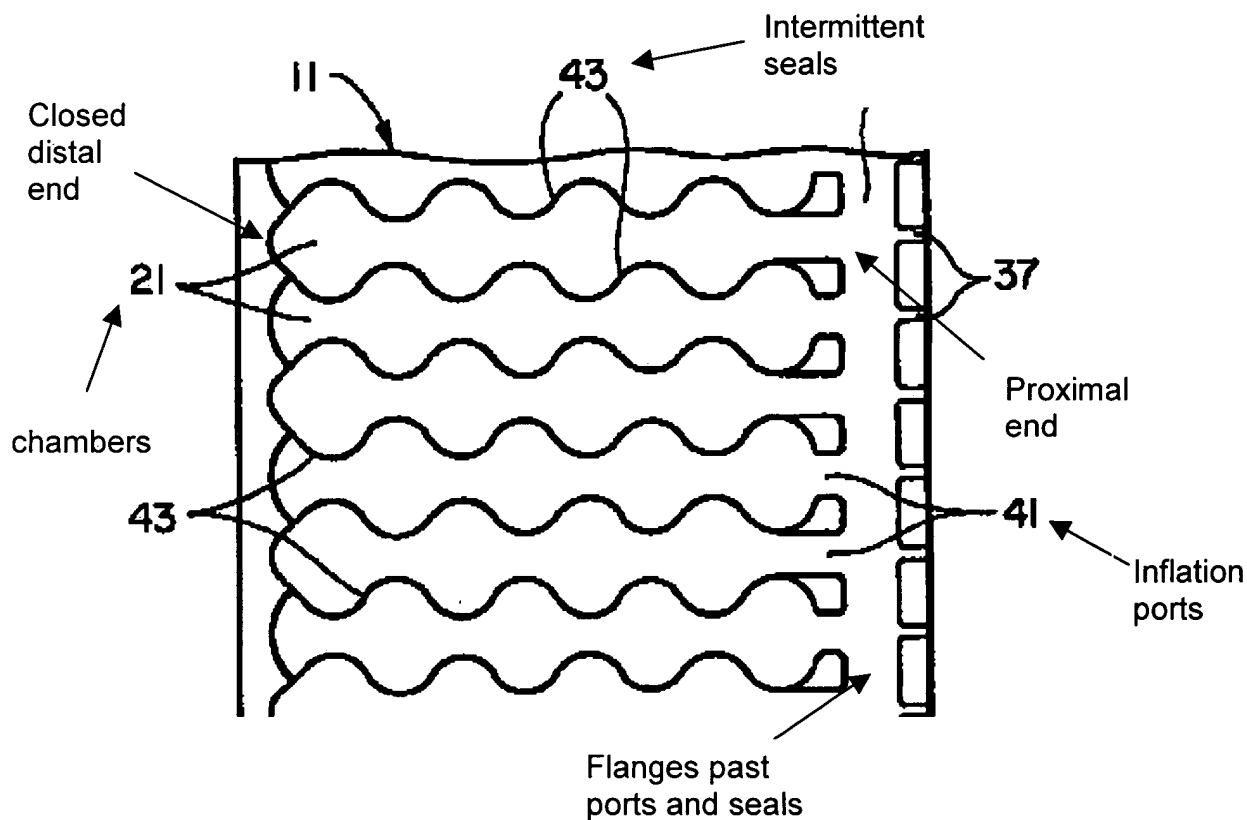
3. **Claims 1-10 and 33** are rejected under 35 U.S.C. 102(e) as being anticipated by De Luca et al. (6,410,119).

De Luca et al. discloses an inflatable web comprising two sheets (see col. 2, lines 47-51) having inner surfaces sealed to each other in a pattern defining a series of

inflatable chambers (Fig. 2, #21) of predetermined length, each of the chambers (Fig. 2, #21) having at least one change in width over their length; an inflation port (Fig. 2, #41) located at a proximal end of each chamber, the inflation ports being formed by intermittent seals (Fig. 2, #43) between the sheets; and longitudinal flanges (see Figure shown below) formed by a portion of each of the sheets that extend beyond the inflation ports and intermittent seals. Regarding **claim 2**, note the chambers (Fig. 1, #23) comprise at least two inflatable sections of relatively large width connected by relatively narrow inflatable passageways (Fig. 1, #25). Regarding **claim 3**, note the inflation ports (Fig. 1, #41) are narrower in width than the inflatable sections of relatively large width (Fig. 1, #21). Regarding **claim 4**, note each of the sheets comprises a heat-sealable thermoplastic polymer on its inner surface (see col. 7, lines 3-5). Regarding **claim 5**, note the sections of relatively large width are circular (Fig. 1, #21) and capable of forming essentially spherical or hemispherical bubbles when inflated. Regarding **claim 6**, note the pattern defining the inflatable chambers form uninflatable planar regions (Fig. 1, #43) between the inflatable chambers (Fig. 1, #21). Regarding **claim 7**, the flanges inherently have a width of at least $\frac{1}{4}$ inch (see Figure shown below). Regarding **claim 8**, the flanges are substantially equal in width (see Figure shown below). Regarding **claim 9**, note each of the inflatable chambers (Fig. 1, #21) has a closed distal end opposite from the proximal end of each chamber (see Figure shown below). Regarding **claim 10**, note the inflation ports comprise inner surfaces that are heat sealable to one another (see col. 8, lines 65-67 and col. 9, lines 1-4). Regarding **claim**

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33, note one or more lines of weakness (see col. 5, lines 26-28) that allow sections of the web to be removed.



Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (703)605-4297. The examiner can normally be reached on 9:30-6:00.

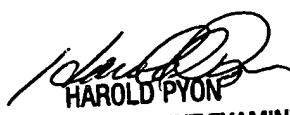
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (703) 308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Catherine Simone
Examiner
Art Unit 1772
December 9, 2003


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

12/12/03